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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 31 March 2017 from the Permanent Mission of South Africa to the United Nations addressed to the Chair of the Committee

The Permanent Mission of the Republic of South Africa to the United Nations in New York presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006), whose mandate also applies to measures imposed in terms of resolution 2321 (2016) against the Democratic People's Republic of Korea, and has the honour to inform the Committee that the Government of South Africa has commenced a process of implementing the necessary measures to give effect to the provisions of resolution 2321 (2016).

All information provided in previous diplomatic notes concerning measures taken by the Government of South Africa to implement resolution 2270 (2016) will also be applicable to the implementation of resolution 2321 (2016).

In addition to the above-mentioned information, the Government of South Africa wishes to inform the Committee of further measures taken to give effect to the provisions of resolution 2321 (2016) (see annex).

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Annex to the note verbale dated 31 March 2017 from the Permanent Mission of South Africa to the United Nations addressed to the Chair of the Committee

Report of South Africa on the implementation of Security Council resolution 2321 (2016)

The South African Council for the Non-Proliferation of Weapons of Mass Destruction is the statutory body appointed by the Minister of Trade and Industry in terms of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) (Non-Proliferation Act) to, on behalf of the State, protect the interests, carry out the responsibilities and fulfil the obligations of South Africa with regard to the non-proliferation of weapons of mass destruction. The Council acts to control the non-proliferation of weapons of mass destruction through the implementation of the Non-Proliferation Act and the Government policy of non-proliferation. The secretariat to the Council, located in the Department of Trade and Industry, provides the necessary technical, secretarial and administrative support to the Council to assist in achieving its object of controlling, registering and inspecting controlled goods and verifying the manufacture, import, export, re-export, transit (including trans-shipment) and end use of controlled (dual-use) goods. The Council also undertakes the necessary actions to ensure compliance with the international treaties, agreements and conventions to which South Africa is signatory. Furthermore, the Council has appointed a number of committees that advise the Council on all matters related to the non-proliferation of weapons of mass destruction. One of the key committees is the Control Committee, which is an interdepartmental committee established to review all applications for the import and export of goods and technologies listed as controlled goods in the secondary legislation promulgated in terms of the Non-Proliferation Act. During the review of applications for export of controlled goods, the Control Committee considers all factors related to the non-proliferation of weapons of mass destruction, including related sanctions and embargoes. These structures would therefore take due consideration of the Security Council resolutions that have been adopted on the Democratic People's Republic of Korea in deliberations concerning any possible transactions of goods and technologies that are controlled in terms of the Non-Proliferation Act and related legislation and have the potential to be used in the development or manufacture of a weapon of mass destruction or delivery thereof.

The South African Civil Aviation Authority has reaffirmed all inputs provided on measures taken to implement Security Council resolution 2270 (2016) as applicable to the implementation of resolution 2321 (2016). In addition, the following affected departments have been informed of resolution 2321 (2016):

(a) The aircraft registration department;

(b) The aviation personnel licencing department;

(c) The flight operations department (foreign operator permits) (The processing of foreign operator permits starts at the Department of Transport and therefore the applications will be managed there.);

(d) The aircraft certification department (type certification);

(e) The aviation personnel examinations section.

The South African Civil Aviation Authority is also in the process of implementing an enterprise business system solution whose aim is to integrate information technology systems and also to enable the Authority to transact with clients electronically. The project is being rolled out and the information and communications technology department has been informed that the system must factor in a functionality that will assist the employees in flagging any applications involving nationals or companies from the Democratic People's Republic of Korea. All affected departments have in the meantime also been asked to notify the international relations office of the South African Civil Aviation Authority if any such applications are received. The civil aviation industry structures were also informed of the sanctions against the Democratic People's Republic of Korea during a meeting of the Industry Liaison Forum hosted by the South African Civil Aviation Authority.

The South African National Prosecuting Authority is the national institution that implements the National Conventional Arms Control Act, 41 of 2002 and the Nuclear Energy Act, 46 of 1999. As concerns authorizations required for acquisition or possession of, and certain activities relating to, nuclear material, restricted material and nuclear-related equipment and material, it is stated specifically in section 34 of the Nuclear Energy Act that:

"(1) Except with the written authorisation of the Minister, no person, institution, organization or body may

(a) be in possession of any source material, except where

(i) the possession has resulted from prospecting, reclamation or mining operations lawfully undertaken by the person, institution, organisation or body; or

(ii) the possession is on behalf of anyone who had acquired possession of the source material in the manner mentioned in subparagraph (i); or

(iii) the person, institution, organisation or body has lawfully acquired the source material in any other manner;

(b) be in possession of the following, namely

(i) special nuclear material;

(ii) restricted material;

(iii) uranium hex afluoride (UF6);

(iv) nuclear fuel;

(v) nuclear-related equipment and material;

(c) acquire, use or dispose of any source material;

(d) import any source material into the Republic;

(e) process, enrich or reprocess any source material;

(f) acquire any special nuclear material;

(g) import any special nuclear material into the Republic;

(h) use or dispose of any special nuclear material;

(i) process, enrich or reprocess any special nuclear material;

(j) acquire any restricted material;

(k) import any restricted material into the Republic;

(l) use or dispose of any restricted material;

(m) produce nuclear energy;

(n) manufacture or otherwise produce or acquire, or dispose of, uranium, hexafluoride (UF6);

(o) import uranium hexafluoride (UF6) into the Republic;

(p) manufacture, or acquire, or dispose of, nuclear fuel;

(q) import nuclear fuel into the Republic;

(r) manufacture or otherwise produce, import, acquire use or dispose of nuclear related equipment and material;

(s) dispose of, store or reprocess any radioactive waste or irradiated fuel (when the latter is external to the spent fuel pool);

(t) transport any of the abovementioned materials;

(u) dispose of any technology related to any of the abovementioned materials or equipment."

Similarly, section 13 of the National Conventional Arms Control Act specifically states that, regarding the control over controlled items, no person may trade in or possess controlled items (munitions or dual-use goods) referred to in section 27 (3), unless that person is registered with the secretariat and in possession of a permit authorized by the Committee and issued by the secretariat.

The Priority Crimes Litigation Unit in the Office of the Director of the National Prosecuting Authority is the dedicated competent entity authorized to implement these Acts, should any person transgress the provisions of these laws specifically related to the Democratic People's Republic of Korea.

The Financial Intelligence Centre responded in particular to paragraph 16 of Security Council resolution 2321 (2016). The Financial Intelligence Centre identified, together with the Department of International Relations and Cooperation and all financial institutions in South Africa, all diplomatic and consular officers attached to the embassy of the Democratic People's Republic of Korea in South Africa. Information provided by the Department of International Relations and Cooperation indicated the names of nine known officials. Information received by local financial institutions lead to the identification of four additional individuals, who currently hold signing authorities on accounts maintained by the embassy of the Democratic People's Republic of Korea. The Department of International Relations and Cooperation and the Financial Intelligence Centre are working together to establish the status of the four additional individuals and will report to the Committee in due course.

It has also been confirmed that the embassy of the Democratic People's Republic of Korea maintains two current accounts at separate local financial institutions. One is a foreign currency account at Standard Bank (No. 090445643) and the other is a current account at Nedbank (No. 1634039955). No accounts could be identified at local financial institutions for any of the known diplomatic and consular officers.

The South African Reserve Bank reported that the content of Security Council resolution 2321 (2016) had been disseminated for comments and implementation to the potentially affected departments within the Reserve Bank. The Financial Surveillance Department of the Reserve Bank regulates cross-border foreign exchange transactions in terms of powers delegated to it under the Exchange Control Regulation, 1961. Only duly appointed Authorized Dealers in foreign exchange and Authorized Dealers in foreign exchange with limited authority are permitted to buy, sell, lend or borrow foreign exchange for permissible purposes subject to specific terms, conditions and limits contained in the Currency and Exchanges Manual. Applications for foreign exchange which fall outside the scope of the Manual must be referred to the Financial Surveillance Department for adjudication. The vast majority of foreign exchange transactions are conducted by Authorized Dealers in foreign exchange and Authorized Dealers in foreign exchange with limited authority without reference to the Financial Surveillance Department. Those foreign exchange dealers are, of course, also required to adhere to other legislation, including but not limited to the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).

The South African Reserve Bank, through its Bank Supervision Department and the Financial Surveillance Department, is mandated to supervise and enforce compliance by the accountable institutions under their supervision with the Financial Intelligence Centre Act to ensure that the necessary controls are in place for combating money laundering and the financing of terrorism. This includes a periodic review of their sanctions screening systems and procedures.

Under the terms of a long-standing arrangement with the Department of International Relations and Cooperation, the Financial Surveillance Department is advised by e-mail of United Nations resolutions and/or changes thereto. Upon receipt of such e-mails, the Financial Surveillance Department takes steps to ensure that the names of parties subject to sanctions are duly flagged on its electronic systems. The flagging has the effect that any application for foreign exchange received by the Financial Surveillance Department that involves parties subject to sanctions will have to be referred to designated staff for adjudication. The names listed in Security Council resolution 2321 (2016) were duly flagged in this manner. It is pertinent to point out that this flagging does not include foreign exchange transactions conducted by Authorized Dealers in foreign exchange and Authorized Dealers in foreign exchange with limited authority that have not been referred to the Financial Surveillance Department.

Insofar as the South African Reserve Bank engages in cross-border SWIFT transactions itself, or on behalf of others, its Financial Markets Department makes use of the SWIFT sanctions screening tool to screen all outgoing transactions against the sanction lists. All "hits" are evaluated by the Risk Management and

Compliance Department of the South African Reserve Bank to ensure adherence to applicable sanctions.

The Department of International Relations and Cooperation reports that the establishment of the embassy of the Democratic People's Republic of Korea has been adjusted by removing the post of Counsellor and by replacing the post of Minister with the post of Second Secretary.